

# **Hurricane and Storm Mitigation and Reconstruction Plan**

**Nags Head, North Carolina**

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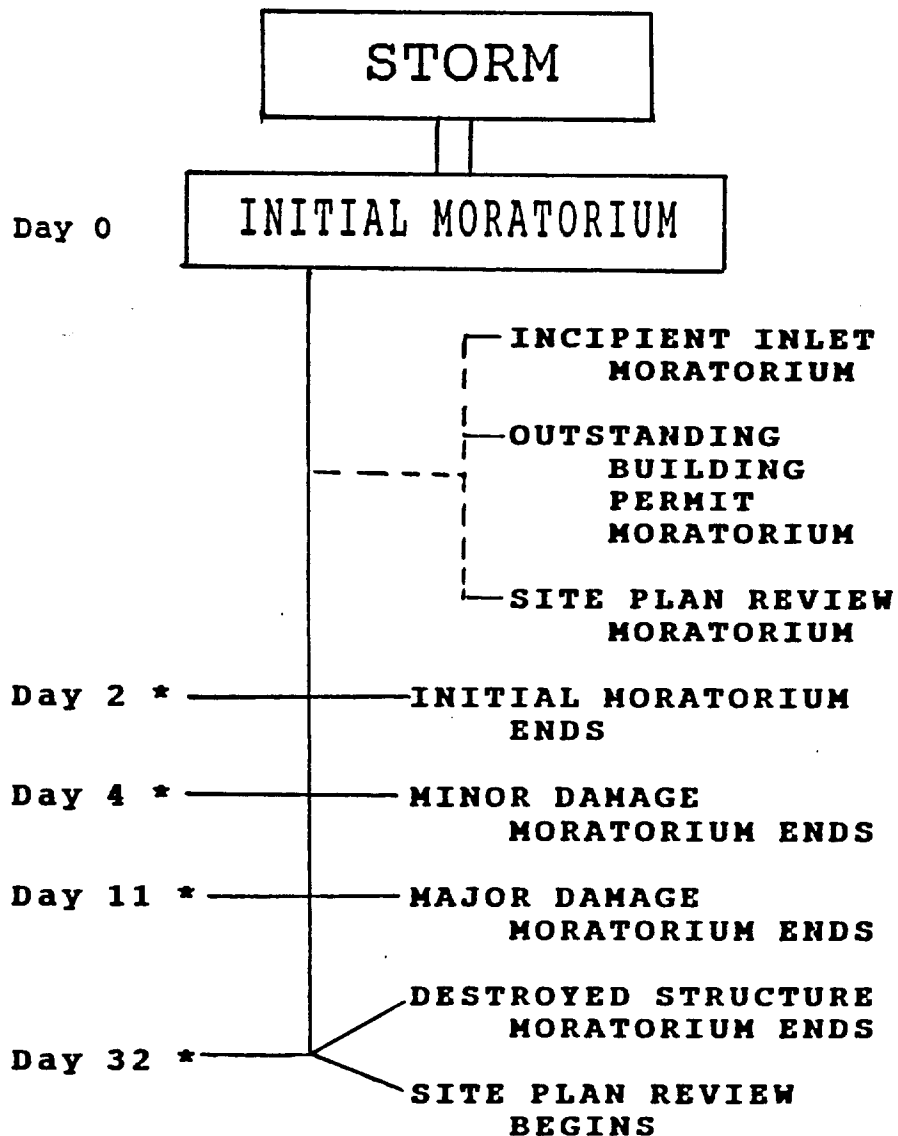
THE TOWN OF NAGS HEAD

HURRICANE AND STORM  
MITIGATION AND RECONSTRUCTION  
PLAN

Adopted October 10, 1988, by the  
Nags Head Board of Commissioners

Town of Nags Head  
P. O. Box 99  
Nags Head, N. C. 27959  
919-441-5508

QC945-N332 1988



\* Duration of moratorium. May be cancelled or extended by the Mayor or resolution by Board of Commissioners.

Emergency repair anytime - examples: minor interior repairs, repairs necessary to prevent injury, loss of life or imminent collapse.

HURRICANE AND STORM RECONSTRUCTION

AND REDEVELOPMENT

CHAPTER 7.1

TOWN CODE OF ORDINANCES

NUISANCES

CHAPTER 12.1

TOWN CODE OF ORDINANCES

AN ORDINANCE AMENDING THE CODE OF ORDINANCES  
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA

BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Code of Ordinances of the Town of Nags Head be amended as follows:

PART I. That CHAPTER 7.1. HURRICANE AND STORM RECONSTRUCTION AND REDEVELOPMENT ORDINANCE be created to read as follows:

CHAPTER 7.1 HURRICANE AND STORM RECONSTRUCTION AND  
REDEVELOPMENT

Sec. 7.1-1. Intent.

Following a damaging storm and enactment of a building moratorium it is the intent of the town to allow rebuilding and reconstruction in an orderly manner. The town will control the issuance of building permits to manage the location, timing, and sequence of reconstruction and repair. It is further the intent of this chapter that the town establish, prior to the storm, a special reconstruction task force which will oversee the recovery and reconstruction process and serve as an advisory body to the town board of commissioners on recovery/reconstruction issues. A main responsibility of this body will be to identify opportunities to mitigate future storm damages through the management of reconstruction. To further the intent of this chapter, the town will make every effort to develop its capacity to identify and orchestrate various post-storm reconstruction resources, while at the same time ensuring maximum local control over the reconstruction process.

Sec. 7.1-2. Definitions.

Destroyed structure. A structure that is a total loss or damaged to such an extent that repairs are not technically or economically feasible, i.e., fifty percent or more of replacement cost at the time of damage or destruction.

Incipient inlet. An ocean-to-sound inlet which has been formed, or an inlet in the first stages of formation, or an inlet which has opened and is now closed, as a result of a severe storm event.



Incipient inlet high hazard area. That land area on both sides of an inlet, an incipient inlet, or former inlet which has closed.

Local damage assessment team. Local damage assessment team. A damage assessment team, required by the North Carolina Division of Emergency Management, whose function is to assess losses to property immediately after a storm. The assessment is used to determine if the area can qualify for federal or state disaster assistance.

Major damaged structure. A structure that can be made habitable with extensive repairs. Damage may include foundation, roof structure, and major structural components. The indicator for this category is if the cost to repair is greater than ten percent and less than fifty percent of the replacement cost at the time of damage.

Minor damaged structure. A structure that can be made habitable in a short period of time with minimal repairs. Damage may include doors, windows, floors, furnaces, water heaters, and other minor structural damage. An indicator for this category is if the cost to repair is ten percent or less of the replacement cost at the time of damage.

Storm event. Any natural weather event causing damage and destruction of property. A storm event shall include, but not be limited to, hurricanes, northeasters, tornadoes, fire, waterspouts, and ice or snow storms.

#### Sec. 7.1-3. Hurricane and storm reconstruction.

(a) Determination of damage. A primary task of the local damage assessment team is to identify structures which as a result of the storm event have been damaged. The local damage assessment team will recommend to the building inspector those structures which have: (1) been destroyed, (2) received major damage or (3) received minor damage. The building inspector will then inspect the damaged structures and place each structure in one of the above categories.

(b) Declaration of a building moratorium. The initial post-storm reconstruction moratorium shall be declared in effect upon the occurrence of one or more of the following findings.

(1) The town is struck by a hurricane of force equal to or greater than four on the Saffir-Simpson scale as determined by the National Weather Service.

(2) The town is declared a disaster area by either the Governor of the State of North Carolina or the President of the United States.

(3) One hundred or more structures have received major damage or have been destroyed as determined by the building inspector.

(4) Upon the finding by the mayor, or in the absence of the mayor, the mayor pro tem, of the Town of Nags Head of the existence of a state of emergency in accordance with NCGS 14-288, as amended, the mayor, or the mayor pro tem, as the case may be, shall declare the initial building moratorium, pursuant to NCGS 160A-174, where the mayor finds a moratorium is necessary for the protection of lives, safety and property, or due to the inability of the town to maintain acceptable levels of public order and services. The mayor may, based upon the above finding(s), extend the initial moratorium until such time as the state of emergency no longer exists.

(c) Moratoriums.

(1) Initial building moratorium. Upon the declaration of a building moratorium the initial post-storm moratorium shall be in effect for a minimum period of forty-eight hours. No building permits shall be issued during this time period. After expiration of this initial moratorium the following moratoria shall then apply.

(2) Destroyed structure moratorium. No building permit shall be issued within thirty days following the expiration of the initial moratorium for the replacement of any structure which has been destroyed. All replacement building shall be subject to meeting all the requirements of the zoning ordinance, Article XVI, and all applicable sections of the town zoning ordinance and all applicable town codes, prior to the issuance of a building permit.

(3) Major damaged structure moratorium. No building permit for repairs of a major damaged structure shall be issued for at least seven days following the expiration of the initial moratorium. All repairs to a major damaged structure shall meet the requirements of the zoning ordinance, Article XVI, and

all applicable sections of the town zoning ordinance and all applicable town codes, prior to the issuance of a building permit.

(4) Minor damaged structure moratorium.

Permits for the repair of minor damaged structures may be issued following the expiration of the initial moratorium. All repairs to minor damaged structures shall meet the requirements of the zoning ordinance, Article XVI, and all applicable sections of the town zoning ordinance and all applicable town codes, prior to issuance of a building permit.

(5) Incipient inlet moratorium. The mayor or board of commissioners may on their own, or upon recommendation by the reconstruction task force, designate any land area bordering an incipient inlet, former inlet or potential inlet as an incipient inlet high hazard area. No building permits shall be issued until such time that the inlet has either closed to such a degree that re-opening is unlikely or that the inlet migration has been stabilized. The reconstruction task force shall recommend to the board of commissioners conditions which will allow for repair of existing damaged structures within the incipient inlet high hazard area.

(6) Outstanding building permits moratorium.

All building permits which were issued prior to the storm event shall be revoked and shall not be reissued for a minimum period of thirty days following the expiration of the initial moratorium, unless upon finding by the chief building inspector on a case-by-case basis that sufficient inspection staff is available to adequately inspect the structures should construction begin or resume. All permits issued prior to the storm event must meet the additional requirements of Article XVI of the zoning ordinance before construction can resume. Applications for building permits revoked under this section shall be reissued at no charge.

(7) Site plan review. Site plans which have been submitted to the town prior to the storm event shall not be reviewed by the staff, planning board or board of commissioners for a period of thirty days following the expiration of the initial moratorium. All submittal dates and review periods shall be adjusted accordingly to reflect the time period covered by this thirty-day moratorium.



(8) No new site plans, zoning requests or subdivision plats shall be accepted by the town for a period of thirty days following the expiration of the initial moratorium. All submittal dates and review periods shall be adjusted accordingly to reflect the time period covered by this thirty-day moratorium.

(9) Duration of moratorium. All moratoriums other than the initial moratorium as enacted in section 7.1-3 (b) (4) shall be in effect for the length of time described above and may be cancelled or extended by the mayor or resolution by the board of commissioners.

(d) Emergency repairs. While a moratorium is in effect no construction or reconstruction activity may be undertaken, excepting only minor interior repairs and emergency repairs necessary to prevent injury or loss of life or imminent collapse or other substantial additional damage to the structure. For illustrative purposes only, items that constitute minor repairs may include temporary roof repairs to avoid further water damage, minor repairs to steps and the temporary shoring up of a structure to avoid imminent collapse.

#### Sec. 7.1-4. Reconstruction task force.

(a) Reconstruction task force created. The reconstruction task force shall be activated and mobilized upon the declaration of the initial building moratorium. The task force shall be responsible for advising the board of commissioners on a wide range of post-storm reconstruction issues.

(b) Responsibilities of the reconstruction task force. The reconstruction task force shall have the following responsibilities:

A primary function of the task force is to receive and review damage reports and other analyses of post-storm circumstances and to compare these circumstances with mitigation opportunities identified prior to the storm to discern appropriate areas for post-storm change and innovation. Where needed, the reconstruction task force can review in a more specific fashion alternative mechanisms for bringing these changes about and recommend the coordination of internal and external resources for achieving these ends.

(1) In addition to the responsibilities above, the reconstruction task force shall:

a. Review the nature of damages, identify and evaluate alternate program approaches for repairs and reconstruction, and formulate recommendations for handling community recovery.

b. Recommend rezoning changes in areas of damage.

c. Set a calendar of milestones for reconstruction tasks in conjunction with the town manager and department heads.

d. Initiate requests for repairs to critical utilities and facilities.

e. Recommend the expiration or extension of a moratorium for "major" and "minor" repairs.

f. Recommend the designation of any land bordering an incipient inlet or inlet as an incipient inlet high hazard area.

g. Recommend the lifting or extension of a moratorium for new development.

h. Evaluate hazards and the effectiveness of mitigation policies and recommend the amendment of policies, if necessary.

i. Initiate recommendations for negotiations for relocations and acquisitions of property.

j. Participate in federal hazard mitigation planning.

The task force shall recommend any changes in zoning, subdivision regulations, setback, density, elevation requirements, building codes, or any other ordinances which it deems necessary or advisable to prevent a recurrence of coastal storm damage.

(2) The reconstruction task force may also undertake a similar process for non-mitigative local objectives and opportunities. The task force may recommend for the board of commissioners' consideration the following specific opportunities:

a. Enhancement of local recreational and open space opportunities; enhancement of public access to estuarine and ocean beaches.

b. Enhancement and restoration of local natural ecosystems.

c. Reduction of traffic congestion, noise, and other transportation-related problems.

d. Enhancement of the long-term economic vitality of the local commercial and industrial base.

e. Other goals which further the stated goals and policies of the town.

(c) Composition of the reconstruction task force.  
The reconstruction task force will be composed of the following individuals reflecting a broad based representation of community interests and shall be appointed annually by the board of commissioners:

- (1) Two elected officials.
- (2) Town manager.
- (3) One planning board member.
- (4) One board of adjustment member.
- (5) One citizens advisory committee member.
- (6) Planning and development director or his representative.
- (7) Planner or zoning administrator.
- (8) Chief building inspector.
- (9) Public works director.
- (10) Police chief or his representative.
- (11) Fire chief or his representative.
- (12) One representative from either the realty or the construction community.

PART II. That Sec. 1-6. General penalty; enforcement of ordinances; continuing violation, subsection (a) be amended by adding the following:

Chapter 7.1-3. all provisions.

PART III. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART IV. This ordinance shall be in full force and effect from and after the \_\_\_\_ day of \_\_\_\_\_, 1988.

\_\_\_\_\_  
MAYOR

ATTEST: \_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

Date adopted: \_\_\_\_\_  
Motion to adopt by Commissioner \_\_\_\_\_.  
Seconded by Commissioner \_\_\_\_\_.  
Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYES

AN ORDINANCE AMENDING CHAPTER 12.1, NUISANCES, OF  
THE CODE OF ORDINANCES OF THE TOWN OF NAGS HEAD, NORTH CAROLINA

BE IT ORDAINED by the Board of Commissioners of the Town of  
Nags Head, North Carolina, that the Code of Ordinances of the  
Town of Nags Head be amended as follows:

PART I. That Chapter 12.1, Nuisances, be amended by creating a  
new subsection 12.1-1 (f) to read as follows:

(f) Storm or erosion damaged structures and  
resulting debris. The existence of any of the  
following conditions associated with storm or erosion  
damaged structures or their resultant debris shall  
constitute a public nuisance.

(1) Damaged structure(s) in danger of  
collapsing.

(2) Damaged structure(s) or debris from  
damaged structures where it can reasonably be  
determined that there is a likelihood of personal or  
property injury.

(3) Any structure(s), regardless of condition,  
or any debris from damaged structure(s) which is  
located in whole or in part in a public trust area or  
public land.

PART II. All ordinances or parts of ordinances in conflict with  
this ordinance are hereby repealed.

PART III. This ordinance shall be in full force and effect from  
and after the 2nd day of May, 1988.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

Date adopted: May 2, 1988

Motion to adopt by Commissioner \_\_\_\_\_.

Seconded by Commissioner \_\_\_\_\_.

Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYES

AN ORDINANCE AMENDING THE CODE OF ORDINANCES  
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA

BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that

WHEREAS, the Town of Nags Head has experienced extensive ocean beach erosion and subsequent loss of property, and

WHEREAS, it is a Town goal to reduce to the extent possible, future damage from hurricanes and severe coastal storms, and

WHEREAS, a majority of the loss of property has occurred on lots which do not abut both the Atlantic Ocean and NC 12 (South Virginia Dare Trail) or NC 1243 (South Old Oregon Inlet Road), and

WHEREAS, owners of structures on lots which abut both the Atlantic Ocean and NC 12 (South Virginia Dare Trail) and NC 1243 (South Old Oregon Inlet Road) have the opportunity to be relocated on the same lot as erosion advances, and

WHEREAS, owners of structures on non-ocean-to-road lots are not afforded the opportunity to retreat.

NOW, THEREFORE, BE IT RESOLVED BY THE NAGS HEAD BOARD OF COMMISSIONERS that lots resulting from future subdivisions of land between the Atlantic Ocean and NC 12 (South Virginia Dare Trail) or NC 1243 (South Old Oregon Inlet Road) shall employ side lot line which abut both the Atlantic Ocean and NC 12 (South Virginia Dare Trail) or NC 1243 (South Old Oregon Inlet Road).

BE IT FURTHER RESOLVED that existing lots which do not abut both the Atlantic Ocean and NC 12 (South Virginia Dare Trail) or NC 1243 (South Old Oregon Inlet Road) may be combined or recombined with other lots which do not abut both the Atlantic Ocean and NC 12 (South Virginia Dare Trail) or NC 1243 (South Old Oregon Inlet Road).

BE IT FURTHER RESOLVED that the following amendment to Section 17-5 of the Code of Ordinances of the Town of Nags Head shall be adopted.

PART I. That Section 17-5. Geographical restrictions--Ocean frontage lots be amended by creating a subsection (c) to read as follows:

(c) Any new subdivision or any subdivision as a result of the combination or recombination of existing legal lots of record, lying between the Atlantic Ocean and NC 12 (South Virginia Dare Trail), or between the Atlantic Ocean and NC 1243 (South Old Oregon Inlet Road) shall employ side lot lines which extend from the right-of-way of NC 12 (South Virginia Dare Trail), or between the Atlantic Ocean and NC 1243 (South Old Oregon Inlet Road), whichever is applicable, to the mean high water mark of the Atlantic Ocean. Within any subdivision, the width of any lot at any point landward of the oceanfront building setback line shall not be less than the required lot width. Nothing in this subsection shall prohibit the combination or recombination of existing legal lots of record which do not abut both the Atlantic Ocean and NC 12 (South Virginia Dare Trail) or NC 1243 (South Old Oregon Inlet Road) provided that the resultant lot area and width are not reduced.



PART II. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART III. This ordinance shall be in full force and effect from and after the 1st day of May, 1989.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

Date adopted: May 1, 1989

Motion to adopt by Commissioner \_\_\_\_\_.

Seconded by Commissioner \_\_\_\_\_.

Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYES

HURRICANE AND STORM RECONSTRUCTION  
AND REDEVELOPMENT  
AND GENERAL USE STANDARDS  
FOR OCEAN HAZARD AREAS  
ARTICLE XVI - ZONING ORDINANCE

AN ORDINANCE AMENDING THE ZONING ORDINANCE  
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA

BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Zoning Ordinance of the Town of Nags Head be amended as follows:

PART I. That ARTICLE XVI - HURRICANE AND STORM RECONSTRUCTION AND REDEVELOPMENT AND GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS be created to read as follows:

ARTICLE XVI - HURRICANE AND STORM RECONSTRUCTION AND  
REDEVELOPMENT AND GENERAL USE  
STANDARDS FOR OCEAN HAZARD AREAS

SECTION 16.01. DEFINITIONS

DESTROYED STRUCTURE: A structure that is a total loss or damaged to such an extent that repairs are not technically or economically feasible, i.e., fifty percent (50%) or more of the replacement cost at the time of damage or destruction.

EROSION ESCARPMENT: The normal vertical drop in the beach profile caused from high tide and/or storm tide erosion.

FRONTAL DUNE: In areas where there is a primary dune, that dune shall be deemed to be the frontal dune. Where there is no primary dune, the frontal dune is deemed to be the first mound of sand located landward of the ocean beach having sufficient vegetation, height, continuity and configuration to offer protective value. Man-made mounds seaward of the natural line of frontal dunes and dunes created after June 1, 1979, shall not be considered to be frontal or primary dunes, except where no frontal or primary dune exists.

HIGH HAZARD FLOOD AREA: The area subject to high velocity waters (including, but not limited to, hurricane wave wash) in a storm having a one percent (1%) chance of being equalled or exceeded in any given year, as identified as zone V1-30 on the flood insurance rate maps of the Federal Insurance Administration, U. S. Department of Housing and Urban Development. In the absence of these rate maps, other available base flood elevation data prepared by a federal, state or other source may be used, provided said data source is approved by the Town of Nags Head.

**MAJOR DAMAGED STRUCTURE:** A structure that can be made habitable with extensive repairs. Damage may include foundation, roof structure, and major structural components. The indicator for this category is if the cost to repair is greater than ten percent (10%) and less than fifty percent (50%) of the replacement cost at the time of damage.

**MEASUREMENT LINE:** The line from which the oceanfront setback as described in Section 16.03 A is measured in the unvegetated beach area of the ocean hazard area. Procedures for determining the measurement line shall be adopted by the Town of Nags Head for each area where such a line is designated. These procedures shall be available from the Zoning Administrator.

**MINOR DAMAGED STRUCTURE:** A structure that can be made habitable in a short period of time with minimal repairs. Damage may include doors, windows, floors, furnaces, water heaters, and other minor structural damage. An indicator for this category is if the cost to repair is ten percent (10%) or less of the replacement cost at the time of damage.

**OCEAN BEACH:** The area of land consisting of unconsolidated soil material that extends from the mean low water line landward to a point where either: (1) the growth of vegetation occurs, or (2) a distinct change in slope or elevation alters the configuration of the landform, whichever is farther landward.

**OCEAN ERODIBLE AREA:** The area in which there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The seaward boundary of this area is the mean low water line. The landward extent of this area is determined as follows:

- (1) A distance landward from the first line of stable natural vegetation to the recession line that would be established by multiplying the long-term annual erosion rate times sixty (60), provided that, where there has been no long-term erosion or the rate is less than two (2) feet per year, this distance shall be set at 120 feet landward from the first line of stable natural vegetation. For the purposes of this ordinance, the erosion rates shall be those set forth in tables entitled "Long-Term Annual Erosion Rates Updated Through 1987" approved by the Coastal Resources Commission on March 18, 1983, July 25, 1986, and July 29, 1988. The tables are available without cost from the Zoning Administrator.

- (2) A distance landward from the recession line established in subsection (1) above to the recession line that would be generated by a storm having a one percent (1%) chance of being equalled or exceeded in any year.

OCEAN HAZARD AREA: The area consisting of the ocean erodible area and the high hazard flood area.

PRIMARY DUNE: The first mound of sand located landward of the ocean beach having an elevation equal to the mean flood level (in a storm having a one percent (1%) chance of being equalled or exceed in any given year) for the area plus six (6) feet. The primary dune extends landward to the lowest elevation in the depression landward of that same mound of sand (commonly referred to as the dune trough).

VEGETATION LINE: The first line of stable natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry-sand beach, which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. It is generally located at or immediately oceanward of the seaward toe of the frontal dune and/or erosion escarpment. In areas where there is no stable natural vegetation present, this line shall be established by connecting or extending the lines from the nearest adjacent vegetation on either side of the site and by extrapolating (by either on-ground observation or by aerial photographic interpretation) to establish the line.

#### SECTION 16.02. HURRICANE AND STORM RECONSTRUCTION AND REDEVELOPMENT

##### A. Intent.

Following a damaging storm and enactment of a building moratorium it is the intent of the Town to allow rebuilding and reconstruction in an orderly manner. The Town will control the issuance of building permits to manage the location, timing and sequence of reconstruction and repair. Primary consideration will be afforded to those structures which have received minor and major damage as defined in Chapter 7.1 of the Code of Ordinances.

B. Conditions for issuance of building permits.

Upon expiration or cancellation of the applicable building moratorium enacted in Chapter 7.1 of the Code of Ordinances, the following additional requirements, in addition to all applicable sections of the Zoning Ordinance and Town Code, shall be met prior to issuance of a building permit.

1. Destroyed structure. The following additional requirements must be met prior to the issuance of any building permit for construction of a new structure.
  - a. A post-storm survey and/or site plan, as applicable, of the lot and the proposed structure.
  - b. Site plan approval as provided in Article X of the Zoning Ordinance.
  - c. Verified location of CAMA setback boundaries.
  - d. On-site inspection of lot by Zoning Administrator.
  - e. Town water will be restorable at street frontage of lot.
  - f. Direct, uninterrupted, approved vehicular access to lot.
  - g. Electrical service restorable to building site.
  - h. All debris removed from lot.
  - i. Septic improvements permits issued by the Dare County Environmental Health Department or the Division of Environmental Health.
2. Major damaged structure. The following additional requirements must be met prior to issuance of a building permit for a major damaged structure.



- a. A post-storm survey and/or site plan, as applicable, of the lot and structure if there is a proposed increase in the footprint of the structure over the pre-storm structure. In addition, the following information shall be provided on the survey/site plan:
    - (1) CAMA setback boundary.
    - (2) The location of all property boundary lines.
    - (3) The possible existence of any non-conformities.
  - b. Site plan approval as provided in Article X of the Zoning Ordinance.
  - c. On-site inspection of lot by Zoning Administrator.
  - d. Town water will be restorable at street frontage of lot.
  - e. Direct, uninterrupted, approved vehicular access to lot.
  - f. Electrical service restorable to building site.
  - g. All debris removed from lot.
  - h. Septic improvements permit issued by the Dare County Environmental Health Department or the Division of Environmental Health, if required.
3. Minor damaged structure. The following additional requirements must be met prior to issuance of a building permit to repair a minor damaged structure.
- a. A post-storm survey and/or site plan, as applicable, of the lot and structure if there is a proposed increase in the footprint of the structure over the pre-storm structure. In addition, the following information shall be provided on the survey/site plan:
    - (1) The location of all property boundary lines.

- b. Site plan approval as provided in Article X of the Zoning Ordinance.
- c. On-site inspection of lot by Zoning Administrator.
- d. Vehicular access to lot.
- e. All debris removed from lot.
- f. Septic improvements permit issued by the Dare County Environmental Health Department or the Division of Environmental Health, if required.

SECTION 16.03. GENERAL USE STANDARDS FOR OCEAN  
HAZARD AREAS

- A. Where strict application of the oceanfront setback requirements of this Article would preclude placement of permanent substantial structures on lots existing as of June 1, 1979, single family residential structures may be permitted seaward of the applicable setback line in ocean erodible areas, if each of the following conditions are met:
- 1. If neither a primary nor frontal dune exists in the ocean hazard area on or landward of the lot on which the development is proposed, the development shall be landward of the erosion setback line. The erosion setback line shall be set at a distance of 30 times the long-term annual erosion rate from the first line of stable natural vegetation or measurement line, whichever is applicable. In areas where the rate is less than two (2) feet per year, the setback line shall be sixty (60) feet from the vegetation line or measurement line, whichever is applicable. For the purposes of this ordinance, the erosion rates shall be those set forth in tables entitled "Long-Term Annual Erosion Rates Updated Through 1987" approved by the Coastal Resources Commission on March 18, 1983, July 25, 1986, and July 29, 1988. The tables are available without cost from the Zoning Administrator.
  - 2. If a primary dune exists in the ocean hazard area on or landward of the lot on which the development is proposed, the primary structure shall be landward of the crest of the primary dune or the erosion setback line, whichever is farthest from the first line of stable natural

vegetation or measurement line, whichever is applicable. For existing lots, however, where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located seaward of the primary dune. In such cases, the development shall be located landward of the erosion setback line and shall not be located on or seaward of a frontal dune. The words "existing lots" in this requirement shall mean a lot or tract of land which, as of June 1, 1979, is specifically described in a recorded plat and which cannot be enlarged by combining the lot or tract of land with a contiguous lot(s) or tract(s) of land under the same ownership.

3. If no primary dune exists, but a frontal dune does exist in the ocean hazard area on or landward of the lot on which the development is proposed, the development shall be set landward of the frontal dune or landward of the erosion setback line, whichever is farthest from the first line of stable natural vegetation or measurement line, whichever is applicable.
4. Because large structures located immediately along the Atlantic Ocean present increased risk of loss of life and property, increased potential for eventual loss or damage to the public beach area and other important natural features along the oceanfront, increased potential for higher public costs for federal flood insurance, erosion control, storm protection, disaster relief and provision of public services such as water and sewer, and increased difficulty and expense of relocation in the event of future shoreline loss, a greater oceanfront setback is required for these structures than is the case with smaller structures. Therefore, in addition to meeting the criteria in this requirement for setback landward of the primary and/or frontal dune, for all multi-family residential structures (including motels, hotels and condominiums) of more than four (4) units or 5,000 square feet total floor area, and for any non-residential structure with a total area of more than 5,000 square feet, the erosion setback line shall be twice the erosion setback described in Section A (1) of this ordinance, provided that in no case shall this distance be less than 120 feet. In areas where the rate is more than three and one-

half (3.5) feet per year, this setback line shall be set at a distance of thirty (30) times the long-term annual erosion rate plus 105 feet.

5. Established common-law and statutory public rights of access to public trust lands and waters in ocean hazard areas shall not be eliminated or restricted.
- B. In order to avoid weakening the protective nature of ocean beaches and primary and frontal dunes, no development will be permitted that involves the removal or relocation of primary or frontal dune sand or vegetation thereon.

SECTION 16.04. EXCEPTIONS TO GENERAL USE STANDARDS  
FOR OCEAN HAZARD AREAS

- A. Where strict application of the oceanfront setback requirements of this Article would preclude placement of permanent substantial structures on lots existing as of June 1, 1979, single family residential structures may be permitted seaward of the applicable setback line in ocean erodible areas, if each of the following conditions are met:
  1. The development is set back from the ocean the maximum feasible distance possible on the existing lot and the development is designed to minimize encroachment into the setback area;
  2. The development is at least 60 feet landward of the vegetation line;
  3. The development is not located on or seaward of a frontal dune, but is entirely behind the landward toe of the frontal dune;
  4. The development incorporates each of the following design standards, which are in addition to those required in other regulations of this Article:
    - a. All pilings have a tip penetration that extends at least four feet below mean sea level;

b. The footprint (the greatest exterior dimension of the structure, including covered porches and covered stairways, when extended to ground level) of the structure be no more than 1,000 square feet or 10 percent of the lot size, whichever is greater.

5. All other provisions of this Article and other state and local regulations are met. If the development is to be serviced by an on-site waste disposal system, a copy of a valid permit for such a system must be submitted as part of the building permit application.

B. For the purposes of this regulation, an existing lot is a lot or tract of land which, as of June 1, 1979, is specifically described in a recorded plat and which cannot be enlarged by combining the lot or tract of land with a contiguous lot(s) or tract(s) of land under the same ownership.

C. At no time shall the oceanfront setback, as defined in Section 4.02, be less than one hundred fifty (150) feet.

PART II. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART III. This ordinance shall be in full force and effect from and after the 10th day of October, 1988.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

Date adopted: October 10, 1988.

Motion to adopt by Commissioner \_\_\_\_\_.

Seconded by Commissioner \_\_\_\_\_.

Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYES

ARTICLE V - NON-CONFORMITIES



AN ORDINANCE AMENDING THE ZONING ORDINANCE  
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA

BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Zoning Ordinance of the Town of Nags Head be amended as follows:

PART I. That Article V - NON-CONFORMITIES be amended by creating a new sub-section 5.02 A (3) to read as follows:

(3) When a non-conforming lot adjoins and has continuous frontage with one or more lots under the same ownership and when any portion of a proposed structure or required use is located on two or more lots, the lots shall be combined into one single lot of record.

PART II. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART III. This ordinance shall be in full force and effect from and after the 10th day of October, 1988.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

Date adopted: October 10, 1988.

Motion to adopt by Commissioner \_\_\_\_\_.

Seconded by Commissioner \_\_\_\_\_.

Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYES

## POLICIES

- ACQUISITION OF PROPERTY
- POLICY ON PRIVATE ROADS
- POLICY ON PUBLIC ROADS
- ASSISTANCE FACILITATOR

AN ORDINANCE AMENDING THE ZONING ORDINANCE  
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA

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PART III. This ordinance shall be in full force and effect from and after the 10th day of October, 1988.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

Date adopted: October 10, 1988.

Motion to adopt by Commissioner \_\_\_\_\_.

Seconded by Commissioner \_\_\_\_\_.

Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYES

## HURRICANE AND STORM RECONSTRUCTION POLICY

### POLICY ON FACILITATOR FOR COORDINATION OF ASSISTANCE FROM THE FEDERAL GOVERNMENT AND STATE AGENCIES AVAILABLE TO THE TOWN FOLLOWING A SEVERE STORM EVENT

The Board of Commissioners of the Town of Nags Head, North Carolina, meeting in regular session on October 10, 1988, hereby adopts the following policy effective October 10, 1988:

Following a major disaster there are a large number of federal and state programs available to the Town to aid in disaster relief and reconstruction. These programs can provide assistance or funds to local government units as well as providing information about assistance that is available to individuals, businesses, families and non-profit associations. Some programs can only be implemented upon declaration of a major disaster by the President of the United States. Other programs can be made available independently of a Presidential Declaration of a major disaster or an emergency

#### POLICY.

It shall be a policy of the Town to retain on a yearly basis a Assistance Facilitator-Consultant who, as directed by the Town Manager, will be responsible for:

1. Determining the types of assistance available to the Town and the type of assistance most needed.
2. Assisting in the coordination of federal disaster recovery effort.
3. Coordinating federal and state programs of assistance.
4. Informing the community of types of assistance programs available.
5. Recommending to the Recovery Task Force and Board of Commissioners programs which are available to the Town and then to act as facilitator in securing those programs.

---

Mayor

October 10, 1988  
Date Adopted

## HURRICANE AND STORM RECONSTRUCTION POLICY

### POLICY ON RECONSTRUCTION OF PUBLIC ROADS AND EASEMENTS FOLLOWING A SEVERE STORM EVENT

The Board of Commissioners of the Town of Nags Head, North Carolina, meeting in regular session on October 10, 1988, hereby adopts the following policy effective October 10, 1988:

#### POLICY.

Prior to the consideration of an expenditure of public funds for the repair or construction of Town streets which are destroyed or damaged as a result of a severe storm event, the Town shall conduct adequate studies and explore alternative solutions, including but not limited to, abandonment procedures, special assessments, and condemnations.

\_\_\_\_\_  
Mayor

October 10, 1988  
Date Adopted

## HURRICANE AND STORM RECONSTRUCTION POLICY

### POLICY ON RECONSTRUCTION OF PRIVATE ROADS AND EASEMENTS FOLLOWING A SEVERE STORM EVENT

The Board of Commissioners of the Town of Nags Head, North Carolina, meeting in regular session on October 10, 1988, hereby adopts the following policy effective October 10, 1988:

#### POLICY.

It shall be a policy of the Town not to expend public funds for the repair or reconstruction of any private road or vehicular easement which is damaged or destroyed as a result of severe storm event, except in conjunction with the repair and maintenance of the Town's water system.

\_\_\_\_\_  
Mayor

October 10, 1988  
Date Adopted



## HURRICANE AND STORM RECONSTRUCTION POLICY

### POLICY ON THE ACQUISITION OF PROPERTY FOLLOWING A SEVERE STORM EVENT

The Board of Commissioners of the Town of Nags Head, North Carolina, meeting in regular session on October 10, 1988, hereby adopts the following policy effective October 10, 1988:

The aftermath of a storm can present an opportunity to achieve substantial progress in hazard mitigation by the rapid acquisition of land.

#### POLICY.

The Town will take advantage of opportunities which may arise to acquire or purchase land following a storm event. To this extent the Town will establish, prepare and identify in advance where priority areas are located and will develop in advance decision making and funding mechanisms to ensure rapid acquisition.

The Town shall identify acquisition areas which would satisfy multiple community objectives including, but not limited to, open space, parks and recreation sites, historic or scenic areas, or areas for location of Town facilities and any other use allowed by law.

\_\_\_\_\_  
Mayor

October 10, 1988  
Date Adopted



BUILDING INSPECTOR  
ASSISTANCE PROGRAM

## BUILDING INSPECTOR ASSISTANCE PROGRAMS

The following municipalities have formalized agreements with the Town of Nags Head (12/1/88):

City of Rocky Mount

City of Kinston

Town of Chapel Hill

City of Wilson

## HURRICANE RECONSTRUCTION PLAN

### BUILDING INSPECTOR ASSISTANCE PROGRAM

Purpose: When a hurricane occurs which results in massive destruction to buildings and disruption of the Town's infrastructure, a team of building inspectors from other localities would be available to assist the Town's building inspectors. These adjunct building inspectors would be briefed on coastal construction requirements of the State Building Code and would perform field inspections. The Town's building inspectors' primary purpose would be to review plans and supervise the field inspectors. The most urgent need for building inspector assistance would be immediately after a storm for repairing structures which are less than 50% destroyed.

Nags Head can borrow building inspectors from other jurisdictions without much ado. NCGS 160A-413 (attached), which permits joint inspection departments, also allows a city council to designate an inspector from any other jurisdiction as a member of its inspection department, with the approval of the other jurisdiction. Also, cities may borrow the authority of county building inspectors within the city. In either case, mutual-aid agreements would be entirely feasible.

Town's obligations regarding this program:

1. The Town would pay salaries, food, lodging, transportation and all costs associated with these inspectors - cost estimate, \$250 - 300 per day, per inspector.
2. Prior to a coastal event, the Town shall need to formalize contracts with cooperating towns and cities.
3. The duties of these inspectors shall be limited to field inspections of approved plans. Nags Head building inspectors would review plans and specifications and the adjunct inspectors would perform field inspections.

BMB



## TOWN OF NAGS HEAD

P.O. BOX 99

NAGS HEAD, NORTH CAROLINA 27959

TELEPHONE (919) 441-5508

June 15, 1988

The Honorable \name \title  
\address  
\city, \state \zip

Dear \sal:

Most of North Carolina is subject to severe storm events including tornadoes, floods, ice storms and, along coastal and eastern North Carolina, hurricanes. Very often preparation for a severe storm event begins shortly before the storm and often we discover that our preparedness was inadequate.

I am writing you and other mayors to propose a solution to one facet of the problem which unexpectedly may face any of us. That problem is our potential inability to deal with the practical aspects of helping our citizens protect, repair, and rebuild their property in the aftermath of a disastrous storm or other catastrophe. While helping our citizens is of great importance, it is made difficult because we also must provide for orderly rebuilding of our cities and towns in conformance with our ordinances and building codes. Achieving these dual goal may be very nearly impossible after a disaster, when our local building inspections staffs are sure to be swamped with building plans to review and field inspections to be made - both of them in numbers many times greater than the norm.

The Town of Nags Head has begun preparation of a recovery plan for use after a major storm or hurricane. One of our plan's proposals is the creation of a Building Inspector Assistance Program which envisions building inspectors from other municipalities being available to assist our building inspectors with plan review and field inspection. This same idea could be used in any city following any disastrous event which created the conditions I have described.

My proposal is that we not wait for the event and then try to solve the problem, but instead create, in advance, a mutual assistance network which could be activated when the need arose. This would be a completely voluntary, reciprocal program with participating municipalities sending inspectors only if they were available. The receiving Town would pay all salaries, food, lodging, transportation, and any other costs associated with these inspectors. To provide essential continuity, we suggest that the inspectors would stay a minimum of five days. Please note that North Carolina General Statute 160A-413 authorizes a city council to designate an inspector from another city to serve as a member of its inspection department with the approval of the governing body of the other city.

The Honorable \name \title

June 15, 1988

Page two

As I mentioned earlier, I am contacting a number of municipalities in an attempt to solicit their participation in this program. I ask you to consider this request and to discuss it with your council and building inspection department. Should you be able to participate in this program, please contact me so we can begin to formalize this mutual assistance network.

I thank you for considering my request and I will look forward to your early reply. With my warm regards, I am

Very truly yours,

Donald W. Bryan  
Mayor

MUTUAL AGREEMENT FOR EMERGENCY BUILDING INSPECTOR ASSISTANCE

Terms and Conditions

WITNESS THIS AGREEMENT, to be made effective the \_\_\_\_ day of \_\_\_\_\_, 1988, by and between the municipalities of the Town of Nags Head and the City of Kinston of the State of North Carolina which has executed this Agreement as the parties signed hereto. The municipality receiving the aid shall be referred to as the Beneficiary and the municipality providing the aid shall be referred to as the Benefactor.

WHEREAS, the Benefactor and the Beneficiary are authorized under the laws of the State of North Carolina to enter into contracts with each other to provide mutual building inspector assistance aid in restoring building inspector services in the event of natural disasters or other emergencies (G.S. §160A-413 and Article 20, Part I; G.S. §160A-460 through 464); and

WHEREAS, the mutual assistance contracts may include provisions for furnishing personnel, equipment, apparatus, supplies and materials; and

WHEREAS, the Benefactor is willing to provide personnel, equipment, apparatus, supplies and materials to the Beneficiary under the terms and provisions hereinafter provided.

NOW, THEREFORE, IT IS AGREED:

1. Term. The term of this Agreement shall commence upon the execution and delivery of this Agreement to the Town of Nags Head and the City of Kinston and shall continue until terminated by either party at any time by giving the other party thirty (30) days prior written notice of its desire to so terminate this Agreement. Termination of this Agreement shall not affect either municipalities' indemnification obligations under Section 4, or any other accrued liability or obligation hereunder, including without limitation the obligation of a Beneficiary to pay amounts due hereunder.



2. Emergency Assistance. In the event of a natural disaster or other emergency affecting a Beneficiary's building inspection services, the Benefactor upon the request of said Beneficiary, shall furnish to said Beneficiary manpower, equipment, apparatus, supplies and materials from its building inspection department as may be required by said Beneficiary; provided, however, that the Benefactor shall not be required to imperil the operation of its building inspection services, and it shall be the sole and absolute judge of its ability and capacity to furnish manpower, equipment, apparatus, supplies and materials when requested; provided further, that nothing in this Agreement shall be construed to deprive the Benefactor of its discretion to decline to send its personnel, equipment, supplies, materials or apparatus in aid of a Beneficiary under any circumstances, whether or not obligated by contract to do so, and neither the Benefactor, nor any of its officers, agents, or employees may be held liable in any civil or criminal action for declining to send personnel, equipment, apparatus, supplies or materials to a Beneficiary under this Agreement.

3. Compensation For Emergency Assistance. A Beneficiary receiving assistance from the Benefactor pursuant to this Agreement shall compensate the Benefactor as follows;

- (a) Manpower. A Beneficiary shall pay the Benefactor for the use of its officer, agents and employees of the municipality supplying Emergency Building Inspection Assistance under this Agreement an amount equal to the sum of the following:
  - (1) an amount equal to actual wages or salary, plus benefits paid to such officers, agents and employees by the municipality for the period of time that they are actively involved in providing emergency assistance pursuant to this Agreement; provided, however, that compensation to be paid hereunder for wages or salary paid shall not exceed 1.5 times base rate excluding benefits for each officer, agent or

(2) all out-of-pocket costs and expenses of the Benefactor in furnishing said manpower, including without limitation, transportation expenses for travel to and from the disaster area.

Further, a Beneficiary receiving assistance under this Agreement in the form of manpower shall, if necessary, house and feed the personnel of the Benefactor actively involved in providing emergency assistance pursuant to this Agreement at its sole cost and expense.

(b) Equipment and Apparatus. A Beneficiary shall pay the Benefactor for the use of all equipment and apparatus furnished by the Benefactor in the provision of emergency assistance pursuant to this Agreement at a rate or rates mutually agreed upon by the Benefactor and said Beneficiary negotiating in good faith; provided, however, that such rate shall not exceed 1.5 times the prevailing rental rate(s) for similar equipment and apparatus.

(c) Materials and Supplies. A Beneficiary shall pay to the Benefactor, for all supplies and materials provided by the Benefactor in rendering emergency assistance pursuant to this Agreement, the replacement cost of the supplies and materials so provided.

4. Indemnification. A Beneficiary receiving emergency assistance pursuant to this Agreement shall indemnify, save and hold harmless the Benefactor, and its officers, agents and employees from any and all loss, liabilities, judgments and damages, and all costs, fees (including attorneys' fees) and expenses related thereto, arising directly or indirectly out of, or in any way connected with the provision of emergency assistance to said Beneficiary hereunder, except when that liability, loss, judgment or damage results solely from the willful acts or omissions of the Benefactor or its officers, agents or employees.

5. Personnel of the Benefactor. Personnel furnished by the Benefactor pursuant to this Agreement shall be conclusively deemed, for all purposes, to remain officials and employees of the Benefactor and while providing aid hereunder and while traveling to and from a Beneficiary to provide aid hereunder, such personnel shall retain all rights, privileges, immunities and benefits, including without limitation, coverage under the North Carolina Workmen's Compensation Act, as they enjoy while performing their normal duties for the Benefactor. All building inspectors shall be and shall remain with the Beneficiary for a minimum of five (5) days.

6. Counterparts. Each of the Beneficiaries shall have executed and delivered to the other municipality an identical Agreement for Emergency Building Inspector Assistance. During the Term of this Agreement, the Benefactor shall be entitled to all the rights of a Beneficiary under such other Agreements for Emergency Assistance. The Benefactor shall also be liable for all obligations incurred by it as a Beneficiary under another Agreement for Emergency Assistance and the termination hereof shall not affect any accrued obligation or liability of the Benefactor thereunder.

7. Modification. This Agreement shall not be amended, modified, or otherwise changed except when done so in writing and upon the prior written consent of the Benefactor and Beneficiary, who at that time have terminated their Agreements for Emergency Building Inspector Assistance, or given notice of the termination thereof. However, this Agreement may be specifically superseded by a subsequent understanding or agreement, oral or written, and both municipalities acknowledge that each municipality may provide or receive emergency assistance under understandings or agreements other than an Agreement for Emergency Building Inspector Assistance without in any way affecting the validity of this Agreement and without the necessity of obtaining the assent of any other Beneficiary.

IN WITNESS THEREOF, the Town of Nags Head has executed this Agreement by the authority of its governing body duly given to be effective the day and year first above written.

TOWN OF NAGS HEAD

BY: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

(SEAL)

Effective date: \_\_\_\_\_

IN WITNESS THEREOF, the City of Kinston has executed this Agreement by the authority of its governing body duly given to be effective the day and year first above written.

CITY OF KINSTON

BY: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

(SEAL)

Effective date: \_\_\_\_\_



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